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OSD DECLASSIFICATION/RELEASE INSTRUCTIONS ON FILE

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15 November 1955

MEMORANDUM FOR THE RECORD

SUBJECT: Missing Persons Act - Discussion with Department of Defense

1. This morning from 1000 to 1130 hours, I held discussion in my office with Mrs. Mary Jean Downing of the Legislative Liaison Office of the Department of Defense on the subject of the Missing Persons Act draft to be presented by the Department of Defense to the Bureau of the Budget on its own behalf and that of this Agency.

2. Subsequent to our meeting in September it appears that all, or virtually all, of the participants were transferred to other duties. Subsequently Mr. Buddeke assigned Mrs. Downing to the problem and she has been reading herself in. The purpose of today's meeting, as expressed by her, was so that she might inform herself as to the views of this Agency.

3. Earlier we had raised four questions with the DOD and each of these questions was discussed again today.

4. The first question concerns the provisions of section 1(a)(3) of the Act pertaining to coverage of civilian officers and employees of the Departments. I gave Mrs. Downing a copy of our proposed language for this section (copy attached to original of this memorandum). She in turn gave me a 19 October redraft by DOD (copy attached). I expressed the following objections to Defense's language:

a. We desire that our full time Career Employees should be protected "wherever serving", just as uniformed military personnel are protected.

b. We were quite agreeable to limiting the coverage of part-time, hourly and intermittent employees resident at places of their employment, to situations arising out of their employment. However we felt that the present language was much narrower in that only limited coverage is afforded to full time employees when they enter into a missing status within the continental U. S. or when they enter into such a status in a location abroad which happens to be their residence

c. Although our interpretation of the proposed language may not be correct, the fact that we make such an interpretation indicates that there are ambiguities which should be resolved

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before presentation to the Bureau of the Budget.

d. We see nothing in the correspondence with the Bureau of the Budget requiring such a narrow phrasing and rather than try to anticipate the Bureau, we would prefer to submit the language most acceptable to us and let the Bureau curtail it, if anyone is to do so.

5. I also reminded Mrs. Downing that the Bureau of the Budget expected Defense to submit our position as well as their own and stated that we were quite adamant on the coverage of our Career Employees and that I felt the Agency could not concur in the language presently suggested by Defense.

6. The second point discussed concerned a provision which would permit the head of a department to determine the status of dependents. At Mrs. Downing's request, I gave her a copy of the earlier draft we had proposed and draft language which would be applicable only to the Central Intelligence Agency (copies attached to original of this memorandum). I indicated, however, that we had reached a policy position that we did not wish special provisions put in for CIA; that we wished a general provision presented to the Bureau of the Budget, and that if the Bureau of the Budget refused such language, we would then be willing to consider the possibility of more limited language. Again, as in the previous point, I stressed our position that we should ask the Bureau for what we wanted rather than what we thought the Bureau might grant.

7. On the question of promotion of persons in a missing status, I did, however, repeat the position we had earlier agreed to with Mr. Buddeke that, since he felt this provision would jeopardize the success of the Act, in view of the previously well-established opposition of the Bureau of the Budget, this particular provision was not of sufficient import to us to warrant our insistence on its inclusion. I repeated, however, as had been stated at the earlier meeting, that we trusted that Defense representatives would discuss the question with us in a joint meeting with the Bureau of the Budget in order to clarify present law and establish a record for any future presentation we might care to make.

COMMENT: It is my tentative opinion that under the Act as now written (and the provision in question is not up for change) and under the Director's special authorities, which clearly apply to the setting of compensation, we can probably work out a promotion policy, whether during or subsequent to a person's being in a missing status, which will meet our needs.

8. The fourth and final point discussed related to section 9 of the Act which concerns the authority or requirement of the Government to collect back payments made on the basis of an erroneous determination of death. Mrs. Downing had available a substantial memorandum compiled within Defense indicating that the present situation is not so bad as we thought it might be and that the practice is pretty well established. She and I agreed that it would probably be better to let this particular sleeping dog lie. Mrs. Downing will forward to me a copy of the memorandum in question.

9. The meeting concluded with the understanding that Mrs. Downing will contact me if she needs additional information or desires further discussion and that there will probably be a meeting of Defense and CIA representatives prior to a joint conference with the Bureau of the Budget. I suggested that a conference with the Bureau might well precede any formal submission of a draft.

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Office of General Counsel

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